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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,725	03/09/2004	Robert McLellan	P6823	1771

7590 09/09/2005

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EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,725

Applicant(s)

MCLELLAN ET AL.

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-20 is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5, 8-10, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMatteis et al., U. S. Patent 6,502,371 in view of Turner, U. S. Patent 3,857,139.
3. DeMatteis teaches a bag comprising a front wall (not shown), rear wall (not shown), ventilation slits 22. DeMatteis also teaches printing the bag with logo. (column 2, lines 55-61). Turner teaches a bag with color-coded indicia to indicate the date of week. It would have been obvious to one having ordinary skill in the art to construct the bag taught by DeMatteis with color codes as taught by Turner to provide a means to indicate a particular day of the week.

Turner teaches color-coded and printed day of the week indicia.

(Figure 1).

With respect to claim 8-9, since the indicia does not provide an unobvious functional relationship with the bag, the examiner contents that the specific claimed indicia is a design consideration.

With respect to claim 10, any surface on the bag void of indicia is capable of receiving marking information.

With respect to claim 3, since the applicant does not disclose that semi-circular slits solves any stated problem or is for any particular purpose, it appears that using any suitable slit as taught by DeMatteis would perform equally well.

4. Claims 2 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMatteis in view of Turner as applied to claim 13 above, and further in view Wilfong. It would have been obvious to one having ordinary skill in the art the time this invention was made to construct the bag taught by DeMatteis and Turner made of High Molecular Weight-High Density Polyethylene to provide a bag with superior stiffness, cost, and processability. (Column 5, lines 19-24).

5. Claims 1, 3-5, 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable Huseman, U. S. Patent 6,718,738 in view of Turner.

6. With respect to claim 1, Huseman teaches comprising: a front wall 14 and a back wall 16, wherein the front wall and back wall joined right and left side edges 20 and 22 and bottom edge 18 to defined a cavity in the main body of the bag. The bag also has a plurality of vents 68 formed in the main body. The front and back walls constructed of a material that will withstand freezing and heating.

7. Turner teaches a bag with color-coded indicia to indicate the date of week. It would have been obvious to one having ordinary skill in the art to construct the bag taught by Huseman with day of the week indicia as taught by Turner to provide a means to indicate a particular day of the week.

With respect to claim 5, Huseman teaches the vents that are formed in the front and back walls.

With respect to claims 8-10, the language in which the indicia is printed does not have an unobvious functional relationship with the bag. It would have been obvious to print the day of the week indicia in whatever language necessary to covey a message to the desire audience.

With respect to claims 11-15, Huseman teaches central strip 42 having openings 44 for attachment to pegs 74 of saddle structure 70.

With respect to claim 14, Huseman teaches the central strip 42 perforated at line 58.

Allowable Subject Matter

8. Claims 18-20 are allowed.


Response to Arguments

9. Applicant's arguments with respect to claims 1 and 13 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cassandra Davis
Primary Examiner
Art Unit 3611

CD
September 6, 2005